

Remarks:

This amendment is supplemental to the amendment dated June 15, 2009.

Applicant respectfully requests that the Election of Species requirement rendered in the original Office action dated August 30, 2007 be revisited and reconsidered. In the original Office action, the Examiner required Applicant to elect one of 29 species for prosecution and indicated that claim 1 is generic. The Applicant elected the species illustrated in Figs. 1A-1C for prosecution. The Examiner then rendered an Office action on claims 1 and 8 allegedly being directed to the elected species.

However, after carefully reconsidering the required election, it is the Applicant's position that claim 1 is not considered a generic claim to the various identified species, but a linking claim. In other words, claim 1, as originally filed, defined part (or a subcombination of the various combinations of elements presented in other disclosed embodiments). For example, although claim 1, as originally filed, read on the embodiments of Figs. 1A-1C, it also read on Figs. 5A-5C, and also Figs. 23A-23C. The embodiment of Figs. 5A-5C adds the shaving gel cartridge to the embodiment of Figs. 1A-1C, while the embodiment of Figs. 23A-23C adds the motor means to the embodiment of Figs. 5A-5C. Claim 1 also reads on other illustrated embodiments. Thus, claim 1 would have been better described as a "subcombination claim linking plural combinations" rather than a "genus claim linking species claims". (See MPEP §809 and §809.03).

Furthermore, as per the MPEP §809, "When all claims directed to the elected invention are allowable, should any linking claim be allowable, the restriction must be withdrawn. Any claims directed to the non-elected inventions, previously withdrawn

from consideration, which depends from or requires all the limitations of the allowable linking claim must be rejoined and will be fully examiner for patentability.” In compliance with such guidelines, claim 1, previously rejected as discussed herein below, has been amended to patentably distinguish over the prior art of record, and to maintain its status as a linking claim linking plural combinations. Claims 2-16 depend from claim 1. Therefore claims 1-16 are directed to the embodiments illustrated in Figs. 5A-5E, 6, 7A, 7B, 8A, 8B, 19A, 19B, 23A-23C, 24A, 24B, 25A, 25B, 26A, 26B 27A and 27B.

Claims 17-49, directed to the remaining figures, have been canceled with Applicant reserving the right to submit these claims in a subsequent divisional application.

In the previous Office action dated October 30, 2007, claims 1 and 8 were rejected under 35 U.S.C. 102(b) as being anticipated by Modla (USPN 3,388,958). Rather than acquiescing over the propriety of this rejection, claim 1 has been amended to distinguish Applicant’s invention more clearly in that the shaving gel applicator, as now claimed, includes a hollow housing having an open proximal end and a closed distal end with a base mounted in closing relationship to the open end. Claim 1 further distinguishes Applicant’s invention in that the base has a brush mounting surface area and a heating means area and a throughbore extending through the base exteriorly of the heating means area. This feature distinguishes Applicant’s invention over the structure of Modla which includes hollow housing 20 having base 31 with throughbore 41 and heating means 42 extending through the throughbore 41. Claim 1 has been further amended to distinguish over the Modla invention by claiming the shaving gel cartridge located within the hollow interior of the hollow housing. While the Modla invention includes shaving gel cartridge

28 closing the distal end of housing 20, it is not within the hollow housing 20 as now required by claim 1. Applicant respectfully requests the Examiner to reconsider the above rejection in light of the current proposed amendments and withdraw this rejection.

In addition to all the references cited of record, Applicant wishes to bring to the attention of the Examiner USPN 1,875,426 to Dillon cited on form PTO/SB/08A. The Dillon '426 reference discloses a lather brush a brush base 10 fitted in crescent shaped socket 9. This device includes shaving cream conduit 4 extending exteriorly of the base 10, unlike Applicant's now claimed shaving gel applicator which defines the throughbore extending through the base.

It is respectfully submitted that none of the references now of record, alone or in combination, would render Applicant's invention unpatentable, whether anticipated or obvious, to one of ordinary skill in the art.

All amendments made herein find full support in this application as originally filed. Thus, no new matter has been introduced by the manner of amending this application.

Accordingly, all of the pending claims, i.e., claims 1 -16 are believed to be in condition for allowance and issuance of a notice of allowance is respectfully requested.

The Examiner is requested to contact the undersigned if there are any questions regarding this communication.

Respectfully submitted,

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